

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 113 OF 2024

Pradip Shankar Dagale

...Applicant

Vs.

The State of Maharashtra and Others

...Respondents

Mr. Chetan H. Deshmukh, Advocate for Applicant.

Mrs. Geeta P. Mulekar, APP for State-Respondent.

Ms. D. Ramani, Advocate for Complainant.

Mr. Amol Govind Borade, PC, Present.

CORAM:- ANIL S. KILOR, J.

DATED:- 7th AUGUST, 2024

PC:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure, the applicant is seeking bail in Crime No.121 of 2023 registered with Trimbakeshwar Police Station, Dist. Nashik, for the offences punishable under Sections 363, 366 and 376 (2)(n) of the Indian Penal Code, 1860 and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012.

3) The applicant is a 22 years old young boy and from the letter allegedly written by the victim and filed on record on page No. 51 of the record book, it appears that there was a love affair between the applicant and the victim. No doubt the victim was minor on the date of the incidence, however, as observed that there appears to be love affair between the applicant and the victim. The co-ordinate bench of this Court in the case of *Nitin Damodar Dhaberao Vs. State of Maharashtra, through Police Station Office of Police Station and Anr*¹, while considering the similar case, has observed thus:-

“6. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. There is no dispute as to the fact that applicant is arrested on 30.08.2020 and there is no progress in the trial though charge-sheet is filed on 26.10.2020. As far as merit is concerned, admittedly victim is of 13 years of age and her consent is not relevant. However, the statements which are recorded by the Investigation Officer shows that victim has left her house at her own accord on the pretext of bringing the book from friend and not returned back at home. She also joined the company of the present applicant and also admitted her love relationship with the present applicant in her statement. From her statement it reveals that, she stayed along with the present applicant at various places and not made any grievance as she was taken by the present applicant by using some force. Thus it is apparent that, out of the love affair, she joined the company of the present applicant. The applicant is also of a tender age of 26 years and out of love affair they come together. It seems that, the alleged incident of sexual relationship is out of the attraction between the two young persons and it is not the case that applicant has subjected the victim for a sexual assault out of lust. Considering the fact that, though charge-sheet is filed long back in the year 2020 and there is no progress in the trial and trial will take its own time for final disposal. In view of that, further incarceration of the present

applicant is not required and no purpose will be served by keeping him behind bar. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly.....”

4) In the present matter, the investigation is completed and the charge-sheet has been filed. Moreover, there is no possibility that the trial will be concluded in near future. Thus, considering the above referred facts, I am of the opinion that the applicant is entitled for grant of bail.

5) The learned APP and the learned Counsel for the victim strongly opposing the application and expressed the apprehension that if the applicant is released on bail, he may pressurize the witnesses and tamper with the prosecution evidence is concerned, the same can be addressed by putting certain stringent conditions.

ORDER

- i. The Bail Application is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No.121 of 2023 registered with Trimbakeshwar Police Station, Dist. Nashik, for the offences punishable under Sections 363, 366 and 376 (2)(n) of the Indian Penal Code, 1860 and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012, on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;

- iii The applicant shall not enter into the territorial jurisdiction of Trimbakeshwar Police Station, Dist: Nashik, till the conclusion of the trial except on the date of trial;
- iv The applicant shall provide his address and name of the nearby police station to the I.O, which he shall attend the said Police Station on 1st and 16th day of every month between 12.00 noon to 2.00 p.m., till the conclusion of the trial except on the date of trial;
- v. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- vi. Liberty is granted to the State to apply cancellation of bail if the applicant commits similar offence.;
- vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.
- viii. Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]